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November 15, 1996

William F. Caton, Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Implementation of the Telecommunications Act  
of 1996; Telemessaging, Electronic Publishing  
and Alarm Monitoring Services  
CC Docket No. 96-152

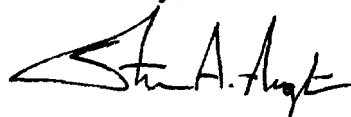
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FEDERAL COMMUNICATIONS COMMISSION  
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Dear Mr. Caton:

On behalf of the Alarm Industry Communications Committee, please take notice that today Robert Bonifas of Alarm Detection Systems, William A. Signer of Chambers Associates, Danny E. Adams of Kelley Drye and Warren LLP, and myself met with John Nakahata of Chairman Hundt's Office. The attached materials were discussed at the meeting.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this notice and attachment are provided for inclusion in the public record.

Sincerely,



Steven A. Augustino

SAA/es  
Attachments

cc: John Nakahata

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Implementation of the )  
Telecommunications Act of 1996: )

Telemessaging, Electronic Publishing, )  
and Alarm Monitoring Services )

CC Docket No. 96-152

EX PARTE PRESENTATION OF THE  
ALARM INDUSTRY COMMUNICATIONS COMMITTEE

November 15, 1996

## WHAT IS THE AICC?

The Alarm Industry Communications Committee ("AICC") is a subcommittee of the Central Station Alarm Association, an industry association for U.L.-listed providers of alarm monitoring services. The AICC's mission is to provide coordination between the alarm industry and the federal government concerning issues affecting the means of communication available to provide alarm monitoring services. The AICC represents the interests of alarm providers before the FCC, other regulatory agencies and the Congress, and has participated extensively over the years in the FCC's *Computer III* proceeding and other proceedings related to the provision of alarm monitoring services.

AICC members provide the overwhelming majority of alarm monitoring services offered in the United States. Its membership includes a broad cross-section of the alarm industry, constituting ADT Security Systems, Inc.; Holmes Protection Group; Honeywell Protection Services; the National Burglar and Fire Alarm Association; Rollins, Inc.; Wells Fargo Alarm Services; the Security Industry Association and Security Network of America.

**SECTION 275 OF THE TELECOMMUNICATIONS ACT OF 1996  
BARS BOC ENTRY IN THE ALARM MONITORING BUSINESS  
FOR FIVE YEARS AND PROVIDES ONLY A NARROW EXCEPTION  
TO GRANDFATHER AMERITECH'S PRIOR ENTRY IN ALARM MONITORING**

In relevant part, Section 275 provides:

**ALARM MONITORING SERVICES**

**(a) DELAYED ENTRY INTO ALARM MONITORING**

- (1) PROHIBITION - No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before the date which is 5 years after the date of enactment of the Telecommunications Act of 1996.
- (2) EXISTING ACTIVITIES - Paragraph (1) does not prohibit or limit the provision, directly or through an affiliate, of alarm monitoring services by a Bell operating company that was engaged in providing alarm monitoring services as of November 30, 1995, directly or through an affiliate. *Such Bell operating company or affiliate may not acquire any equity interest in, or obtain financial control of, any unaffiliated alarm monitoring service entity after November 30, 1995, and until 5 years after the date of enactment of the Telecommunications Act of 1996, except that this sentence shall not prohibit an exchange of customers for the customers of an unaffiliated alarm monitoring service entity.*

**CONGRESS INTENDED FOR SECTION 275(A)(2) TO ACT AS A BAR  
TO FURTHER EXPANSION OF AMERITECH'S EXISTING  
ALARM MONITORING BUSINESS THROUGH ACQUISITION**

- Because Ameritech already had entered the alarm monitoring business, Congress created an exception in Section 275 to allow it to continue to operate its existing alarm business *but* barred from expanding this business through acquisitions, investments or purchases of consumer contracts for 5 years.
- Section 275(a)(2) makes clear that *Ameritech cannot own an equity interest in or have financial control of any unaffiliated alarm monitoring entity*. Ameritech may not acquire control of the alarm monitoring business unit of another company, whether it purchases the stock of the entity or acquires its assets. There is no better indicator of "financial control" than ownership.
- Ameritech's claim that this Section merely requires it to structure alarm company acquisitions as asset deals rather than stock transfers is nonsensical and renders Section 275 moot. Ameritech's interpretation places no real limit on its ability to acquire alarm monitoring companies. For example, Ameritech recently purchased *all* of Circuit City's alarm monitoring assets and then hired all of its former alarm monitoring employees -- in effect purchasing Circuit City's alarm monitoring business. If its interpretation is correct, it could continue to acquire assets in this manner, until it had obtained control of every alarm monitoring entity in the country.

**SECTION 275(A)(2) DOES NOT REMOVE  
THE RESTRICTION ON BOC ENTRY SIMPLY  
BECAUSE A BOC HAD OFFERED TRANSMISSION SERVICES  
TO ALARM MONITORING PROVIDERS**

- U S West claims that it also is grandfathered under Section 275(a)(2) because it offers two services -- Versanet and Scan Alert -- that enable alarm monitoring providers to receive alarm signals from customer locations.
- The services U S West identifies are transmission services, not alarm monitoring services. These services use derived local channel technology to establish a communications path between the customer and the alarm provider. Functionally, they are indistinguishable from other transmission services, such as private lines and use of the public switched network to signal the alarm provider.
- U S West's interpretation would eviscerate the 5 year prohibition in its entirety. All of the other BOCs also offer a derived local channel service equivalent to Versanet and Scan Alert. If these services entitle a BOC to provide alarm monitoring services without restriction, then *all* of the BOCs are grandfathered, and Section 275(a)(1) does not apply to any entity.

**SECTION 275(A)(1) EXPLICITLY PROHIBITS ENTRY  
BY THE BOCs INTO THE  
ALARM MONITORING BUSINESS UNTIL 2001**

- Section 275(a)(1) states that "No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services" for 5 years.
- Some BOCs, led by SWBT, interpret this prohibition only as a narrow restriction on their ability to operate an alarm monitoring central station. Based on this interpretation, SWBT contends that it may:
  - sell, install and maintain alarm monitoring CPE;
  - market alarm monitoring services;
  - bill for the monitoring service as "SWBT Security Service";
  - dictate the terms of the contract for alarm monitoring service;
  - set the price for and share in the alarm monitoring revenues; and
  - generally serve as the point of sale contact with the consumer.
- This interpretation ignores the plain language and clear purpose of Section 275. Section 275 was enacted in response to the BOCs' control over local exchange facilities essential to alarm monitoring, and was intended to bar the BOCs from the alarm monitoring business until local competition could develop. Congress chose a 5 year ban over the separate affiliate/nondiscrimination safeguards approach of Section 271.
- SWBT's proposed Security Service engages it in the provision of alarm monitoring services and creates incentives for SWBT to discriminate against other alarm monitoring providers.